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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,058	12/14/2001	Jason P. McDevitt	03768/09388	6225

7590 05/18/2004

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EXAMINER

LEITH, PATRICIA A

ART UNIT	PAPER NUMBER
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1654

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/017,058	Applicant(s) MCDEVITT ET AL.	
	Examiner Patricia Leith	Art Unit 1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/25/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claims 1-15 are pending in the application and were examined on the merits.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a previous Office Action.

Information Disclosure Statement

All of the references pertaining to the previous IDS were submitted to the Office. In order for the Examiner to officially consider these references, Applicant is asked to submit a new 1449 form with these references listed.

Claim Rejections - 35 USC § 103

Claims 1 and 3-15 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine et al. (US 5,447,505).

Claims newly recite 'wherein said protein-containing fibrous component consists essentially of protein fibers'. Applicant's principal argument is that the language 'consisting essentially of' excludes non-protein fibers, and therefore is not obviated by Valentine's disclosure of cotton and wool fiber combinations.

However, it was clearly taught by Valentine that wool was a known to be used as a surgical dressing alone (col.1, lines 1-15). Wool is not interwoven, and only contains wool and therefore satisfies the newly recited requirements of claim 1. Thus, the claims remain rejected over Valentine for the reasons set forth on the record.

Claims 1-2 and 4-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ninagawa (WO97/07273-English Abstract).

Ninagawa disclosed a surgical dressing which comprised only nonwoven silk fibers (see English abstract). Therefore, dressing wounds with bandages that 'consisted essentially of protein fibers' such as silk was known in the art at the time the invention was made.

Ninagawa did not specifically teach wherein a protease was targeted to be removed, wherein the protease is attracted and entrapped by the protein-containing fibrous components.

It is deemed that the placement of the protein-containing fibrous components to the wound-site, and removal of said components from the wound, would have intrinsically performed the claimed methods. Although Ninagawa did not explicitly teach wherein the bandages were removed from the wounds, it is

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well known in the art that bandages are applied until ample healing has occurred and then subsequently removed. It is deemed that the protease would be removed as an intrinsic consequence of the removal of the bandages because the prior art is employing the same protein-containing fibrous component (silk or wool) which is being placed on a wound.

Therefore, even though the intended use of the prior art methods was to place the bandage on the wound to aid in wound repair, the method obviates the claimed invention because the same action was carried out, regardless of the intent of the action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia Leith whose telephone number is (571) 272-0968. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on (571) 272-0968. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patricia Leith
Primary Examiner
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05/03/04

A handwritten signature in cursive script, reading "Patricia Leith". The signature is written in black ink and is positioned to the right of the date "05/03/04".